

February 12, 2008

PHIPPSBURG PLANNING BOARD

REGULAR MEETING

The meeting convened at 5:00pm. Planning Board members present were: Marie Varian, Chairman; Mark Hawkes; Clifford Newell; Robert Smith; Marion Hebert, Alternate/Recording Secretary. A quorum was declared.

SEBASCO HARBOR RESORT

The first order of business was to hear from Steve Mohr of Mohr & Seredin Landscape Architects and representing Sebasco Harbor Resort (Map 44, Lot 28). Mohr presented the Board with plans and documents in support of a sketch plan review request for the proposed Merritt Mountain Minor Subdivision. The subdivision is a result of relocating the Fairwinds Cottage from another Resort lot to the Merritt Mountain parcel and creating a 1.0-acre lot around the structure. Mohr said the lot creation could be interpreted as the third parcel created within a 5-year period on Lot 28, if the conveyance of the Island View cottage in 2006 (Lot 1) is not found to be exempt under the provisions of the State of Maine Subdivision Law.

Varian referred to Section 4401.4 of the State Subdivision Law and explained that the Boards' only concern with the proposed subdivision will be with the Fairwinds lot on the corner of the Merritt Mountain Road and Sebasco Roads. The Board determined that the sale of the Island View Cottage and lot caused Lot 28 to be split into two (2) lots. The Fairwind lot will create a 3-lot split within five (5) years and, therefore, puts Lot 28 into a Subdivision status. There are no exemptions involved.

Mohr will get a list of abutters to the property. Copies of property deeds and covenants were submitted. A site walk will not be conducted until all required subdivision documents are received. A Public Hearing will be scheduled later. On a motion by Clifford Newell, the Sketch Plan was accepted by the Board.

LYNCH - EXPANSION OF NON-CONFORMING STRUCTURE

The Board was next approached by Ken Lynch of 4 Wallace Circle (Map 27, Lot 73, zoned Residential). Lynch was accompanied by Gerald Pelletier of GP Construction in Brunswick. Lynch's application asked for the expansion of a non-conforming structure using the 30% rule. Area and volume calculations, a proposed site plan and existing and proposed expansions were part of the application. Some 11% square feet is proposed to be added with a volume of 14%. The application was unanimously approved on a motion



by Newell under Section 2.11 of the Phippsburg Land Use Ordinance and was signed by all Board members.

	Square Feet	Cubic Feet
Existing	2,934	25,708
Allowed for Expansion	800	7,712
Required for Permit	326	3,634
Remaining for Future Use	554	4,078

MINUTES AND ANNOUNCEMENTS

The Board considered and approved the minutes of the January 8, 2008 meeting and reviewed the Site Walk minutes of January 27 on the property of Greg and Kathleen Gensheimer. Both were accepted. Varian announced that Vice-Chairman, Clifford Newell, will write the 2007 Planning Board Report for the Town's Annual Report. She further reported of a pending lawsuit against the Inhabitants of the Town of Phippsburg, Leighton Rainey, Marie Varian, David Barnes and John M. Young, citing Defamation and Deprivation of Civil Rights brought by North Creek Farm, Inc.

ORDINANCE AMENDMENT

The Board discussed an Amendment to the Shoreland Zoning Ordinance and Land Use Ordinance regarding an increase in the nonconformity of a structure (copy attached). The Chair will submit an article for the May 2008 Town Meeting.

KATHLEEN GENSHEIMER

The Gensheimers applied for three (3) permits in January. Action was tabled pending a site walk on January 27.

Mrs. Gensheimer of 98 Newbury Point Road (Map 27, Lot 20) in West Point next approached the Board.

Varian explained that one of the three applications presented were to: construct a new walkway between the existing house and a barn which required a ruling on an accessory structure and how far away it had to be considered an accessory structure. She advised that Maine Municipal Association has responded that they have not found a Court case that specifies any particular distance from a house or any particular structure to something else so an accessory structure in a non-conforming situation, in their opinion, would be that, if it is very close, circumventing the intent of the 30% rule. She further stated that she had contacted DEP and talked with Mike Morse in the South Portland Office. His opinion was almost the same, saying that any accessory structure would have to meet the



setbacks from water, neighbors, etc. She added that a person cannot take the square and cubic footage from a building outside of the zone, connect it to a building in the zone and take the building's footage outside the zone and add it to the non-coforming building. She clarified that the Gensheimers are not asking that that be done. Morse then asked if the Gensheimer's have used any part of their allowed 30%. Varian answered that they have. Morse replied that they could not approve that because it would appear that they were trying to get around the rules. Varian advised that the Gensheimers should rethink the walkway.

Mrs. Gensheimer stated that Mr. Gensheimer had been in contact with a representative in the South Portland Office. The South Portland Office advised that it could not be considered an expansion if it was not attached to a building. Varian advised that there would have to be another way to do it if they want to proceed with that. She asked Mrs. Gensheimer if they want the application tabled until next month rather than denied at this point. Mrs. Gensheimer replied that she would rather have it tabled. Another proposal will be presented for a non-attached structure which will have to meet the required setbacks as set forth in the Ordinance. A motion was made by Newell that the application be tabled until the March meeting.

Mrs. Gensheimer next provided the Board with the application to construct a new concrete foundation beneath a portion of the existing residence (Map 27, Lot 20), Newbury Point Subdivision. The proposed construction will not exceed the current footprint of the building as it exists and will not involve relocation of the structure. The application was unanimously accepted by the Board with the following comment: "Permit was issued under Sect. 12.C.1.b of the Phippsburg Shoreland Zoning Ordinance. The Planning Board conducted a site visit on January 27, 2008. There is no practical way to move the several sections of the house farther away from the water. A slope (upward) is behind the house." No increase in the footprint of the structure will be involved. The Gensheimers also have to have approval from the DEP. A motion was made by Newell to approve the application which was unanimously approved by the Board and was signed by all members. Mrs. Gensheimer provided a check for \$20 to the Board.

The Gensheimers plan to construct a new driveway access which will require approval from a majority of the Homeowner Association members. A site walk was conducted on January 27 by Planning Board members, CEO Lee Rainey, and the applicant Gregory Gensheimer. The proposed private driveway area was marked with pink flagging. It was noted that there are no brooks or streams in the area and that a utility pole near the proposed driveway entrance from the Newbury Point Road will have to be moved. The Board voiced no objection to the construction of the driveway as proposed and viewed. Varian asked that a signed copy of the Covenants be provided to the Board. Abutter Sam Jones advised that he has a copy of the Covenants and he will provide them. Mr. Jones requested that the application be tabled until an abutter to the driveway entrance is back



from travelling. The application was tabled until the March meeting and Mrs. Gensheimer agreed, even though they would like to get started as soon as possible. A motion to table was made by Newell and seconded. The motion was unanimously approved by the Board.

The Board viewed the proposed location for the erection of a windmill which would be beyond the Resource Protection Zone and had no objection to the location. A permit would be needed from the Codes Enforcement Officer rather than the Planning Board.

The meeting was adjourned at 6:57pm.

Respectfully submitted,

Marion

Marion Hebert
Alternate Planning Board Member/Recording Secretary

